

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

CHARLES WALKER,

Plaintiff,

-against-

HARTFORD FIRE INSURANCE
COMPANY,

Defendant.

-----X

MEMORANDUM AND ORDER

Case No. 16-CV-01183 (FB) (SJB)

Appearances:

For the Plaintiff:

CHARLES WALKER

Pro Se

For the Defendant:

DARRELL JOHN

Conway, Farrell Curtin & Kelly PC
48 Wall Street
New York, NY 10005

BLOCK, Senior District Judge:

Plaintiff Charles Walker (“Plaintiff”) passed away on September 8, 2017, and his then-counsel filed a Suggestion of Death with the Court on November 6, 2018. Federal Rule of Civil Procedure 25 provides that, for any action where “a party dies and the claim is not extinguished,” the Court may order substitution of the decedent on a motion for substitution “made by any party or by the decedent’s successor or representative.” In the event that no motion for substitution is “made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.” *Id.* To date, not motion for substitution has been filed.

On February 24, 2020, the Court issued an Order to Show Cause (“Order”) directing that, by “March 6, 2020, the plaintiffs family members shall notify the Court whether they have filed a[n] action in Surrogate Court to appoint an Executor to the plaintiff’s estate,” and advising that “[f]ailure to comply with this Order shall result in the dismissal of the complaint without prejudice.” Copies of the Order were mailed to Ms. Tamain McFarlin (Plaintiff’s daughter), Ms. Talisha McFarlin (Plaintiff’s daughter), Ms. Eileen Davis (the mother of Plaintiff’s son), and Ms. Latrice Walker (Plaintiff’s sister), at their last-known respective addresses.

Having received no notice or motion for substitution, the Court dismisses the Complaint without prejudice under Federal Rule of Civil Procedure 25.

SO ORDERED.

/S/ Frederic Block
FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
June 1, 2020